

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/07

Date: 8 March 2010

**THE PRESIDENCY**

**Before:**

**Judge Sang-Hyun Song, President**

**Judge Fatoumata Dembele Diarra, First Vice-President**

**Judge Hans-Peter Kaul, Second Vice-President**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF  
*THE PROSECUTOR v. GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI***

**Public**

**Decision replacing judges in the Appeals Chamber**

**Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:**

**The Office of the Prosecutor**  
Mr Luis Moreno Ocampo, Prosecutor  
Ms Fatou Bensouda, Deputy-Prosecutor

**Counsel for the Defence of Mr Katanga**  
Mr David Hooper  
Mr Andres O'Shea

**Counsel for the Defence of Mr Ngudjolo Chui**  
Mr Jean-Pierre Kilenda Kakengi Basila  
Prof Jean-Pierre Fofé Djofia Malewa

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for Participation/Reparation**

**The Office of Public Counsel for Victims**  
Ms Paolina Massidda

**The Office of Public Counsel for the Defence**  
Mr Xavier-Jean Keita

**States Representatives**

**Amicus Curiae**

## **REGISTRY**

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**Registrar**  
Ms Silvana Arbia

**Defence Support Section**  
Mr Esteban Peralta Losilla

**Deputy Registrar**  
Mr Didier Preira

**Detention Section**  
Mr Anders Backman

**Victims and Witnesses Unit**  
Ms Maria Luisa Martinod-Jacome

**Other**  
Appeals Chamber

**Victims Participation and Reparations Section**  
Ms Fiona McKay

**THE PRESIDENCY** of the International Criminal Court (“Court”);

**NOTING** the “Decision on the ‘Defence Application for Leave to Appeal the Trial Chamber’s *Décision relative à la requête de la Défense de Germain Katanga en illégalité de la détention et en suspension de la procédure*’”;<sup>1</sup>

**NOTING** the “Document in support of the Defence Appeal of the *Décision relative à la requête de la Défense de Germain Katanga en illégalité de la détention et en suspension de la procédure*” filed on 25 February 2010 before the Appeals Chamber (“appeal”);<sup>2</sup>

**NOTING** the request for excusal filed before the Presidency on 16 February 2010 by Judges Akua Kuenyehia and Anita Ušacka (“judges”) pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence (“Rules”), wherein the judges requested to be excused from sitting in the appeal and in all future appeals in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (hereinafter “case”) on the basis of their previous involvement in the pre-trial phase of the case, in the course of which they issued warrants of arrest for, and confirmed the charges against, Mr Germain Katanga and Mr Mathieu Ngudjolo Chui;<sup>3</sup>

**NOTING** the decision of the Presidency of 8 March 2010 pursuant to article 41 of the Rome Statute of the International Criminal Court (“Statute”), granting the judges’ request for excusal in the appeal and in all future appeals in the case on the ground of the judges’ previous involvement in the case and treating them as unavailable for the purpose of the appeal;<sup>4</sup>

**NOTING** the composition of the Appeals Chamber as set out in article 39(2)(b)(i) of, the Statute, pursuant to which the Appeals Chamber shall be composed of all the judges of the Appeals Division, which in turn is composed of the President and four other judges by virtue of article 39(1) of the Statute;<sup>5</sup>

<sup>1</sup> ICC-01/04-01/07-1859, 11 February 2010.

<sup>2</sup> ICC-01/04-01/07-1916-Corr, 25 February 2010.

<sup>3</sup> Annex I.

<sup>4</sup> Annex II.

<sup>5</sup> Following the fourteenth and fifteenth plenary sessions of the judges held on 13 March 2009 and 8 June 2009 respectively, the Appeals Division and Chamber is composed of Judges Sang-Hyun Song, Akua Kuenyehia, Erkki Kourula, Anita Ušacka and Daniel David Ntanda Nsereko.

**CONSIDERING** rule 38 of the Rules, providing for the replacement of judges;

**CONSIDERING** regulation 15 of the Regulations of the Court, pursuant to which the Presidency is responsible for the replacement of judges in accordance with article 39 of the Statute, and regulation 12 of the Regulations of the Court, further to which the Presidency shall, in the event that a member of the Appeals Chamber is disqualified, or unavailable for a substantial reason, attach to the Appeals Chamber on a temporary basis a judge from either the Trial or Pre-Trial Division;

**HEREBY DECIDES:**

For the purpose of the appeal, to temporarily attach Judge Ekaterina Trendafilova, currently assigned to the Pre-Trial Division, and Judge Joyce Aluoch, currently assigned to the Trial Division, to the Appeals Chamber, which shall be composed as follows:

Judge Sang-Hyun Song;

Judge Erkki Kourula;

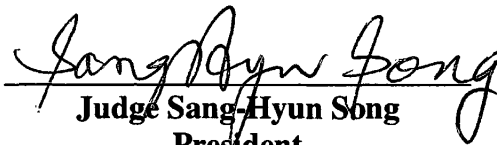
Judge Ekaterina Trendafilova;

Judge Daniel David Ntanda Nsereko; and

Judge Joyce Aluoch.

**ORDERS** the Registrar to file and notify this decision to the relevant parties and participants in the case.

Done in both English and French, the English version being authoritative.

  
Judge Sang-Hyun Song  
President

Dated this 8 March 2010

At The Hague, The Netherlands